REMARKS/ARGUMENTS

Claims 8-24 are active. These claims find support in the disclosure as follows: Claim 8 (Claim 1; cosmetic base: paragraph bridging pages 6-7; water soluble extract: page 4, line 4 ff.; shine and moistness: page 3, second full paragraph and pages 15-21, Examples 1-11; Claims 9-12 (pages 6-7), Claims 13-19 (pages 3-4, bridging paragraph), Claims 20-22 (pages 4-5), Claims 23-24 (9th and 8th lines from bottom of page 6). Accordingly, the Applicants do not believe that any new matter has been added.

The Applicants thank Examiner Jones for the courteous and helpful interview of June 13, 2006. Various ways to distinguish the invention from the cited prior art were discussed, including functional limitations disclosed in the Examples, limitations to particular types of algae or seaweeds, and limitations to particular extraction procedures. The Examiner indicated that new limitations might result in the application of new prior art.

Information Disclosure Statement

The Applicants respectfully request that the Examiner acknowledge citation AA on the IDS filed September 22, 2004. Copies of English language Abstracts for four of the foreign patents crossed-out on that IDS are provided with this response. The document crossed-out on the March 17, 2004 IDS was submitted with a statement of relevancy, a copy of which is attached.

Rejection—35 U.S.C. §102

Claims 1 and 4-7 were rejected under 35 U.S.C. 102(b) as being anticipated by Naoki et al., JP 61-087614. This rejection is moot in view of the cancellation of these claims. It would not apply to the new claims, since Naoki does not disclose a process involving aqueous extraction and proteolysis of algae, which is required by independent Claim 8.

Rather, Naoki is directed to a process where algae are decomposed with a cellulose decomposition enzyme (e.g., mercerase, hemicellulase, etc.) and subsequent fermentation using yeast or lactobacillus.

Rejection—35 U.S.C. §102

Claims 1, 2, 4, 5 and 7 were rejected under 35 U.S.C. 102(b) as being anticipated by Albitskaya et al., RU 2,044,770. This rejection is moot in view of the cancellation of these claims. It would not apply to the new claims, since Albitskaya does not disclose a process involving aqueous extraction and proteolysis of algae and recovery of a water-soluble fraction, which is required by independent Claim 8.

The Albitskaya (abstract) does not seem to describe the extraction steps of their method sequentially. However, this document appears to be directed to a process where *Chlorella* microalgae biomass (CMAB) is treated with an organic solvent to separate the lipid-pigment complex, and then subjected to enzyme hydrolysis. The enzyme hydrolysis comprises heating and hydrolysis by cellulolytic and proteolytic enzymes. Hydrolysis is continued until the dry substance content of the biomass aqueous phase attains 5-5.8%. The abstract does not describe what constitutes the dry substance content, but this would appear to refer to insoluble unhydrolysed biomass residue. Hydrolysis is followed by separation of an aqueous phase containing the protein hydrolysate and the unhydrolysed biomass residue. The abstract does not explicitly state that the unhydrolysed biomass is insoluble, but one would infer that it is, since it has not dissolved in the aqueous or organic phases of the extraction mixture. Thus, the Albitskaya extract contains insoluble unhydrolyzed biomass and would lack components which were extracted into the organic phase, including hydrophobic or amphiphilic peptides and proteins.

On the other hand, the present claims require aqueous extraction and proteolysis of algae and recovery of a water-soluble fraction and does not require extraction using an organic solvent. Accordingly, the Applicants respectfully submit that this rejection would not apply to the present claims.

Rejection—35 U.S.C. §103

Claims 1-7 were rejected under 35 U.S.C. 103(a) as being anticipated by Naoki et al., JP 61-087614. Naoki has been addressed above and does not disclose or suggest proteolysis of algae. Accordingly, this rejection would not apply to the present claims.

Rejection—Double Patenting

Claims 1-7 were rejected on the grounds of nonstatutory obviousness-type double patenting over Claims 1, 14, 15 and 20 of Suetsuna et al., U.S. Patent No. 6,217,879. The Applicants traverse this rejection since the pending claims require a composition comprising a cosmetic base and that the composition have certain functional properties making it useful as a cosmetic. On the other hand, the claims of the prior patent do not require these limitations and refer to products such as foods and antihypertensive agents (col. 13, lines 3-22). Moreover, the claims of the prior patent do not require the particular cosmetic ingredients required by Claims 9-12 and only cover laver and not the other types of algae required by Claims 13, 14, 16, 18 and 19.

Provisional Rejection—Double Patenting

Claims 1-7 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over Claims 1-8 and 12 of copending U.S. Application No. 11/078,617. The Applicants respectfully request that this provisional double patenting rejection be held in

abeyance pending the identification of otherwise allowable subject matter in the present application. Upon an indication of allowability for the pending claims, the Applicants understand that the provisional double patenting rejection will be withdrawn, provided the claims in the copending application have not been allowed, MPEP 804(I)(B).

Provisional Rejection—Double Patenting

Claims 1, 2 and 4-7 were provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over 1-8 and 12 of copending U.S. Application No. 10/652,069. The Applicants respectfully request that this provisional double patenting rejection be held in abeyance pending the identification of otherwise allowable subject matter in the present application. Upon an indication of allowability for the pending claims, the Applicants understand that the provisional double patenting rejection will be withdrawn, provided the claims in the copending application have not been allowed, MPEP 804(I)(B).

CONCLUSION

In view of the above amendments and remarks, the Applicant respectfully submit that this application is now in condition for allowance. An early notification of such allowance is earnestly requested.

Respectfully submitted,

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